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COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

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IN REPLY PLEASE
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January 23, 2003

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVE APPROPRIATION ADJUSTMENTS
FOR PAYMENT OF SETTLEMENT AND JUDGEMENT
AGAINST THE COUNTY ROAD FUND AND FLOOD CONTROL DISTRICT FUND
AND TO COVER EXCHANGES OF FEDERAL-AID HIGHWAY FUNDS WITH VARIOUS
CITIES FOR COUNTY OF LOS ANGELES GASOLINE TAX FUNDS
SUPERVISORIAL DISTRICTS 1, 3, and 4
3 VOTES**

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the enclosed Appropriation Adjustments:

1. Transferring \$7.7 million from the Road Fund's Fiscal Year 2002-03 Services and Supplies appropriation to the Road Fund's Other Charges appropriation and \$3.3 million from the Flood Control District's Services and Supplies appropriation to the Flood Control District's Other Charges appropriation. These transfers are to fund judgement and settlement costs.
2. Transferring \$1,482,000 from the Road Fund's Fiscal Year 2002-03 Services and Supplies appropriation to the Road Fund's Other Charges appropriation to allow exchanges of County gasoline tax funds for equivalent amounts of Federal-aid credits through assignments of Federal-aid funds to the County by various cities.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Appropriation Adjustments in Public Works' Road Fund and Flood Control District Fund to judgement and settlement costs is needed to fund a court judgement in the amount of \$7.4 million (including interest) stemming from the Jack Martin vs. County of Los Angeles, Case No. SC053435, that was consolidated with the Leslie Thomson, et al., vs. County of Los Angeles, et al., Case No. SC033363, as well as to fund a Board authorized settlement in the case entitled Cherry Katherine Lalk Arches vs. County of Los Angeles, Case No. SC051181, which resulted in a payment to the plaintiff in the amount of \$4,395,000.

The Appropriation Adjustment for \$1,482,000 in the Road Fund from the Services and Supplies appropriation to the Other Charges appropriation is needed to allow \$1,050,000 of Board approved exchanges of Federal-aid credits by the Cities of Signal Hill and Long Beach (Agreement Nos. 71760,71042,71756,73717), for equivalent amounts of County gasoline tax funds. In addition, we are anticipating that the Board will approve exchanges of Federal-aid credits for equivalent amounts of County gasoline tax funds of \$432,000 with the Cities of La Habra Heights, Long Beach, and Huntington Park.

Implementation of Strategic Plan Goals

This action is consistent with the County Strategic Plan Goal of Fiscal Responsibility as these appropriation adjustments will provide sufficient appropriation in the Other Charges appropriation category for Public Works to fund the above judgement and settlement and to enable an exchange of funds with the Cities during Fiscal Year 2002-03.

FISCAL IMPACT/FINANCING

The total cost to the Flood Control District for the above judgement and settlement is estimated at \$3,700,000, and the total cost to the Road Fund for the two cases is estimated at \$7,700,000. The exchange of gasoline tax funds for equivalent amounts of Federal-aid credits previously assigned by the Cities of Signal Hill and Long Beach is estimated at \$1,050,000 for Fiscal Year 2002-03 with an additional \$432,000 in exchanges with the Cities of La Habra Heights, Long Beach, and Huntington Park that are anticipated to be approved by the Board during Fiscal Year 2002-03.

The funding to pay the judgement and settlement and the exchange of funds with various Cities exists within the Road Fund and Flood Control District appropriations; however, appropriation adjustments are necessary to transfer the needed appropriation from the Services and Supplies to the Other Charges appropriations category.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Jack Martin vs. County of Los Angeles, Case No. SC 053435, was consolidated with the Leslie Thomson, et al., vs. County of Los Angeles, et al., Case No. SC033363. It is an inverse condemnation case. A public entity has strict liability if found to be responsible for damages. The property owners claimed that County roads and flood control drains diverted runoff from uphill developments into the private creek alongside their properties, resulting in erosion which caused or contributed to the 1993 and 1998 landslides affecting properties on McCray Lane in the unincorporated area north of the City of Malibu. The County and District contended that the landslides were triggered by heavy rains and high groundwater and that the property owners had insufficient evidence to support their erosion theory. Furthermore, the County and District argued that the controlling case law required apportionment of damages between the parties to the litigation and between the various contributing causes, including naturally occurring water and water from private property owners. The trial court found that the County and District were the sole cause of the landsliding and that no apportionment of liability between other parties or causes was necessary. The County and District appealed that decision. The State Court of Appeal, Second District, rendered a decision affirming the adverse verdict against the County and the District. On advice from outside counsel and County Counsel, an appeal to the State Supreme Court was not pursued as the prospects for obtaining its review were not favorable. The settlement for the Cherry Katherine Lalk Arches case was approved by the Board of Supervisors on January 7, 2003.

The payment of County gasoline tax funds to various Cities in exchange for equivalent amounts of Federal-aid credits is mutually beneficial and in the general interest of the Cities and County in that it provides the Cities with less restrictive funds for improvement of their streets. The County has sufficient Federal-aid eligible projects in the unincorporated areas to which the Cities' Federal-aid credits can be obligated.

ENVIRONMENTAL DOCUMENTATION

The need for environmental documentation is not applicable to the judgment and settlement and the exchange of funds previously described.

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IMPACT ON CURRENT SERVICES (OR PROJECTS)

These appropriation adjustments may impact Public Works' construction project schedules in the Flood Control District Fund and the Road Fund.

CONCLUSION

Upon approval, please return one copy of this letter to Public Works.

Respectfully submitted,

JAMES A. NOYES
Director of Public Works

Enc.

cc: Chief Administrative Office
County Counsel